

**First Supplemental Agreement to the Intergovernmental Agreement  
between Richland County, South Carolina; City of Columbia, South  
Carolina; City of Forest Acres, South Carolina; Lexington County, South  
Carolina; and the Central Midlands Regional Transit Authority**

THIS FIRST SUPPLEMENTAL AGREEMENT is made this \_\_\_1st\_\_\_ day of July, 2018, by and between Richland County (the "County") and the Central Midlands Regional Transit Authority ("CMRTA").

WITNESSETH that:

WHEREAS, on July 2, 2013, the County, City of Columbia, South Carolina; City of Forest Acres, South Carolina; Lexington County, South Carolina; and the CMRTA entered into an Intergovernmental Agreement ("IGA") to establish the terms and conditions upon which the CMRTA shall receive and utilize its funding to provide a highly effective public transit system within Richland County and portions of Lexington County; and

WHEREAS, the April 12, 2018, Circuit Court Order requires Richland County to be subject to the South Carolina Department of Revenue's Guidelines for Use of Transportation Tax Revenue ("Guidelines"), incorporated herein and attached as Exhibit A; and

WHEREAS, the Guidelines apply to all outside agencies, political subdivisions or organizations designated to receive funding from the Transportation Tax funds; and

WHEREAS, the County and the CMRTA memorialize the distribution of Transportation Tax Revenue as defined in Section 5.01 of the Intergovernmental Agreement Related To The Central Midlands Regional Transit Authority.

NOW, THEREFORE, the County and the CMRTA agree to the following regarding the distribution of Transportation Penny funding.

1. Pursuant to the terms of Section 5.01 of the IGA, Richland County shall provide to the CMRTA the appropriate percentage (28.13%) of the actual Transportation Tax Revenue received from the State Treasurer, even if such amounts exceed or are less than budgeted amounts.
2. The CMRTA will be responsible for the strategic planning of these funds, should the CMRTA receive Transportation Tax Revenue more quickly than anticipated in the original planning of the Transportation Penny.
3. The County shall pay to the CMRTA the difference between the actual Transportation Tax Revenue received by the County and the amounts previously paid to the CMRTA from July 1, 2013 to April 12, 2018, which totals \$5,060,039.96.
4. The payment referenced in number 1 above shall become effective with the payment for the first quarter of fiscal year 2018-2019. The payment referenced in number 3

above shall be made by the County from the distribution it receives from the penny tax collected without interest from the State Treasurer for the first quarter of fiscal year 2018-2019. The amounts to be paid pursuant to number 3 above shall be adjusted upwards as necessary to reflect amounts becoming due between April 12, 2018, and the actual date of the payment.

5. The CMRTA shall comply with the SC Department of Revenue's Guidelines for Use of Transportation Tax Revenue included as Exhibit A and the Transportation Act.

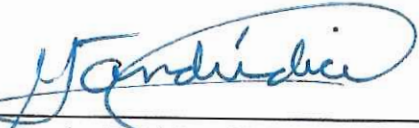
Except as otherwise provided in this First Supplemental Agreement, the Intergovernmental Agreement of July 2, 2013 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative the day and year first above written.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

RICHLAND COUNTY

By: \_\_\_\_\_

  
Sandra E. Yúdice, Ph.D.  
Assistant County Administrator

Attest: \_\_\_\_\_

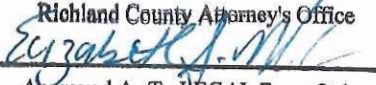
CENTRAL MIDLANDS REGIONAL TRANSIT AUTHORITY

By: \_\_\_\_\_

  
Executive Director/CEO

Attest: \_\_\_\_\_

Richland County Attorney's Office

  
Approved As To LEGAL Form Only.  
No Opinion Rendered As To Content.

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF RICHLAND ) CIVIL ACTION NO.: 2016-CP-40-3102

Richland County, South Carolina, )  
Plaintiff, )  
v. )  
The South Carolina Department of )  
Revenue, and Rick Reames, III in )  
his Official capacity as its Director, )  
Defendants/Third Party )  
Plaintiff, )  
v. )  
Richland PDT, a joint venture )  
consisting of M.B. Kahn )  
Construction Co., Inc., ICA )  
Engineering, Inc., and Brownstone )  
Construction Group, LLC, as a unit )  
and individually, )  
Third Party Defendants, )  
And )  
Columbia Metro Rapid )  
Transportation Authority (CMRTA), )  
Intervenor. )

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**ORDER GRANTING DEFENDANTS/THIRD PARTY PLAINTIFFS’  
TEMPORARY INJUNCTION**

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THIS MATTER came before this Court on remand from the South Carolina Supreme Court, Opinion No. 27775, filed March 7, 2018, wherein the Supreme Court enjoined Plaintiff Richland County, South Carolina (“Richland County” or the “County”) from violating the

Transportation Act and held that the Department is entitled to an injunction requiring Richland County to expend the funds generated by the Penny Tax solely on transportation-related projects in accordance with the law. *See Richland Cty. v. S.C. Dep't of Revenue*, Op. No. 27775 (S.C. Sup. Ct. filed Mar. 7, 2018) (Davis Adv. Sh. No. 10 at 42–43) (the “Supreme Court Opinion”).<sup>1</sup> The Supreme Court ordered that the injunction is effective as of March 7, 2018, and further directed this Court, no later than 30 days following remand, to issue a standalone injunction consistent with the Supreme Court’s opinion. *Id.* at 43.<sup>2</sup>

Accordingly, I hereby grant Defendant/Third Plaintiff South Carolina Department of Revenue’s (the “Department”) Motion for Injunctive Relief and enter an injunction in accordance with the Supreme Court Opinion and for the reasons set forth below:

### **PROCEDURAL BACKGROUND**

This matter arises from a dispute between Richland County and the Department regarding the County’s use of funds appropriated pursuant to the Transportation Act. On July 18, 2012, Richland County enacted Ordinance No. 039-12HR scheduling a referendum on November 6, 2012 to seek approval from Richland County voters to implement a sales and use tax (the “Penny Tax”) pursuant to the Transportation Act. The referendum passed, and the Penny Tax went into

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<sup>1</sup> The Optional Methods for Financing Transportation Facilities Act (the “Transportation Act”) authorizes the governing body of a county to impose a sales and use tax (“Transportation Tax”) in an amount not to exceed one percent within its jurisdiction for a single project or for multiple projects for a specific period of time to collect a limited amount of money. S.C. Code Ann. § 4-37-30(A) (Supp. 2017). Throughout this litigation, the parties and Court have typically referred to Richland County’s Transportation Tax by its common nomenclature: the Penny Tax. The Supreme Court Opinion likewise used the term “Penny Tax.” For sake of ease and consistency, this Order will refer to Richland County’s Transportation Tax as simply the Penny Tax.

<sup>2</sup> By Order dated March 21, 2018, the Supreme Court extended the time for serving and filing a Petition for Rehearing in this matter to April 6, 2018. Thus, because the remittitur cannot be sent prior to the expiration of the time period for filing a Petition for Rehearing, this case was not remanded to this Court and the thirty (30) day period for this Court to issue a standalone injunction did not begin until April 7, 2018. *See* Rule 221, SCACR.

effect on May 1, 2013. The Penny Tax is authorized to run through April 30, 2035, and is slated to raise over \$1 billion for transportation-related projects in Richland County.

In April 2015, the Department initiated an audit review of Richland County's Penny Tax program. Following the audit review, the Department informed Richland County that it had uncovered evidence of a variety of improper or unlawful expenditures and had determined that Richland County had used Penny Tax funds for purposes beyond the scope of allowable costs under the Transportation Act.

As a further result of the Department's audit review, the Department requested that Richland County adopt and implement a uniform standard to determine whether certain costs would be eligible to be paid out of Penny Tax funds and that all future expenditures be in strict conformity with the laws of this State.

The County objected to the Department's suggested standard. After the Department indicated it would withhold allocations of Penny Tax funds to the County, the County filed suit against the Department seeking a Writ of Mandamus, or, in the alternative, a preliminary injunction, to require the Department to remit the County's Penny Tax allocations to the State Treasurer's Office for subsequent payment to the County. Because the mass transit bus system operated by CMRTA is the largest recipient of Penny Tax funds, the CMRTA moved to intervene in this action. This Court granted the motion to intervene.

The Department answered Richland County's pleadings and filed counterclaims against the County alleging that the ordinance approved by the voters was void as exceeding the scope of the enabling statute, S.C. Code Ann. § 4-37-30, and that the County's expenditures of Penny Tax funds were inconsistent with § 4-37-30. The Department further filed counterclaims against the County (and third party claims against the Richland PDT and its individual members) alleging

civil conspiracy, fraud and constructive fraud with regard to the improper procurement of Penny Tax contracts, and the improper expenditure of Penny Tax funds. The Department also filed motions seeking an injunction and the appointment of a receiver.

On August 3, 2016 this Court entered an Amended Order issuing a Writ of Mandamus requiring the Department to remit to Richland County all Penny Tax allocations due the County (both in the past and in the future); denying both the County's and the Department's Motion(s) for Injunction; and denying the Department's Motion for the Appointment of a Receiver. The Court further found that the Department had standing to pursue its counterclaims against the County, including its declaratory judgment, civil conspiracy, fraud and constructive fraud causes of action. Both Richland County and the Department subsequently appealed the Amended Order.

On August 16, 2016, the Court issued its Order Granting Third-Party Defendant's Motions to Dismiss the Third-Party Complaint (which was not the subject of the subsequent appeal by the County or the Department).

On March 7, 2018, the South Carolina Supreme Court issued Op. No. 27775, in which the Supreme Court affirmed in all respects except that it reversed this Court's denial of the Department's request for injunctive relief and held that the Department is entitled to an injunction requiring Richland County to expend the funds generated by the Penny Tax solely on transportation-related projects in accordance with the law.

### **LEGAL ANALYSIS**

#### **a. Injunctive Relief Standard**

"Actions for injunctive relief are equitable in nature." Denman v. City of Columbia, 387 S.C. 131, 140, 691 S.E.2d 465, 470 (2010). An injunction is appropriate where a party



demonstrates irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. Id.

Here, the Department has demonstrated all three elements and is therefore entitled to injunctive relief in this matter as set forth in the Supreme Court Opinion.

First, without an injunction in place, Richland County could continue to spend Penny Tax funds for purposes not directly related to the planning, acquiring, constructing, or improving transportation-related projects as specified in S.C. Code Ann. § 4-37-30. The probable irreparable economic harm to the State in general, and Richland County taxpayers in general, constitutes sufficient irreparable harm.

Second, the Department has presented a compelling prima facie case that some of the County's expenditures of Penny Tax funds are in violation of the Transportation Act. Peek v. Spartanburg Regional Healthcare System, 367 S.C. 450, 456, 626 S.E.2d 34, 37 (Ct. App. 2005) (quoting Hensel v. City of North Myrtle Beach, 307 S.C. 29, 32, 413 S.E.2d 824, 826 (1992) ("Once a prima facie showing has been made entitling the plaintiff to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits.")). In particular, the Supreme Court highlighted several problematic expenditures of Penny Tax funds by Richland County, including:

- (1) the use of more than \$554,000 in Penny Tax funds to organize and staff the County's Small Local Business Enterprise (SLBE) Program, which was established as a county-wide program intended to support all facets of County operations—not just Penny Tax projects;
- (2) paying two public relations firms monthly payments of \$25,000 each for the provision of "public information services" despite the fact that a fully operational public information office already existed within Richland County and no documentation existed to detail the specific services these two firms were providing; and
- (3) the more than \$38,000 that Richland County spent under a vague and duplicative "mentor-mentee" arrangement, whereby Richland County contracted with certain

inexperienced individuals to perform more than \$400,000 in real-estate and legal services, then paid each of those individuals and an experienced contractor/vendor to “mentor” and “be mentored” and learn how to provide the very services they were contracted to provide.

Although this may not be an exhaustive list of Richland County’s problematic expenditures of Penny Tax funds, the Court finds these expenditures are sufficient to establish a compelling prima facie case that Richland County has or is spending Penny Tax funds in violation of the Transportation Act. *See Richland Cty.*, Op. No. 27775 (S.C. Sup. Ct. filed Mar. 7, 2018) (Davis Adv. Sh. No. 10 at 47 n.7).

Finally, the Department has alleged sufficient facts to show that it has no adequate and complete remedy at law. *Knohl v. Duke Power Co.*, 260, S.C. 374, 376, 196 S.E.2d 115, 116 (1973) (citing *S.C. Pub. Service Authority v. Carolina Power and Light Co.*, 244 S.C. 466, 137 S.E.2d 507 (1964)). In particular, Richland County’s Penny Tax program will last for approximately 22 years, during which time over one billion dollars (\$1,000,000,000.00) is expected to be spent. But for this injunction, the State and the taxpayers of Richland County lack an adequate remedy at law to be compensated in damages or to prevent Richland County from spending Penny Tax Funds in violation of the Transportation Act.

**b. Guidelines Governing Richland County’s Expenditure of Penny Tax Funds**

The Transportation Act provides that the types of projects permitted to be funded with Penny Tax funds are highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects facilities. S.C. Code Ann. § 4-37-30(A)(1)(a); *see also Richland Cty.*, Op. No. 27775 (S.C. Sup. Ct. filed Mar. 7, 2018) (Davis Adv. Sh. No. 10 at 29). A proper expenditure of Penny Tax funds must be tethered to a specific transportation-related capital project or the administration of a specific transportation project. *Id.*



As directed by the Supreme Court, I find that it is necessary for guidelines or standards to be established to serve as objective criteria for determining whether expenses are proper under the Transportation Act. Accordingly, I find that Richland County's expenditures of Penny Tax funds shall be subject to the "Guidelines for Use of Transportation Tax Revenue" (the "Guidelines"), which is attached hereto and incorporated fully herein as Exhibit A. These guidelines shall serve as the standard for determining whether Richland County's Penny Tax expenditures are properly allocable to a specific transportation-related capital project or the direct administration of a specific transportation project

NOW THEREFORE, based on the foregoing, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that:

- (1) The Department's Motion for Temporary Injunction is hereby **GRANTED**;
- (2) Richland County is hereby enjoined from making any further payments, expenditures, contracts, or other obligations of Penny Tax Funds in violation of the Transportation Act;
- (3) Richland County shall be subject to the Guidelines that are attached hereto as Exhibit A, and these Guidelines shall be used to determine whether all of Richland County's Penny Tax expenditures are proper under the Transportation Act;
- (4) The Department is authorized to audit Richland County's Penny Tax Program to ensure that all of the County's expenditures of Penny Tax funds comply with South Carolina law as set forth in the Guidelines; and
- (5) The temporary injunction is to remain in effect until further order of this Court or dismissal of this action.

**AND IT IS SO ORDERED.**

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G. THOMAS COOPER, Jr.  
Presiding Circuit Judge, Fifth Judicial Circuit

Columbia, South Carolina

April \_\_\_, 2018

# EXHIBIT A



STATE OF SOUTH CAROLINA  
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 12265, Columbia, South Carolina 29211

**GUIDELINES FOR USE OF TRANSPORTATION  
TAX REVENUE**

WHEREAS, the Optional Methods for Financing Transportation Facilities Act (the "Transportation Act"), codified at Title 4, Chapter 37 of the Code of Laws of South Carolina 1976, as amended, authorizes the governing body of a county to impose a sales and use tax in an amount not to exceed one percent (the "Transportation Tax," sometimes commonly referred to as the Penny Tax) within its jurisdiction for a single project or for multiple projects for a specific period of time to collect a limited amount of money, *see* S.C. Code Ann. § 4-37-30(A) (Supp. 2017); and

WHEREAS, the Transportation Act provides that the types of projects permitted to be funded with Transportation Tax revenues are highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects facilities, *see* S.C. Code Ann. § 4-37-30(A)(1)(a); and

WHEREAS, the South Carolina Department of Revenue (the "Department") administers and collects the Transportation Tax and the revenues are periodically remitted to the county by the State Treasurer in accordance with the provisions of the Transportation Act. S.C. Code Ann. § 4-37-30(A)(15) (Supp. 2017); and

WHEREAS, the South Carolina Supreme Court in *Richland County and the Central Midlands Regional Transit Authority v. S.C. Department of Revenue*, -- S.E.2d --, 2018 WL 1177700 (March 7, 2018) held that the Department has extensive administrative, oversight, and enforcement responsibilities in the Transportation Act and throughout Title 12 of the South Carolina Code, which confers upon the Department a duty to ensure that a county's expenditures of Transportation Tax revenues comply with the revenue laws the Department is charged with enforcing; and

WHEREAS, the Department is the agency statutorily tasked with administering a Transportation Tax program, and the expenditure of millions of dollars of Transportation Tax revenues is an issue of wide concern both to the Department and to the residents and taxpayers of the county implementing the Transportation Tax; and

WHEREAS, Transportation Tax revenues must be used in accordance with statutory restrictions imposed by the General Assembly, namely, proceeds must be used for the types of transportation-related projects identified in the Transportation Act; and

WHEREAS, the Supreme Court determined that a proper expenditure of Transportation Tax funds must be tethered to a specific transportation-related capital project or the administration of a specific transportation project; and

WHEREAS, the Supreme Court has determined that objective criteria are necessary to establish compliance with the Transportation Act, and has ordered that a county that has implemented a Transportation Tax program shall be subject to guidelines for determining whether expenses are properly allocable to a specific transportation project, or the direct administration of a specific transportation project; and

WHEREAS, the Department is authorized to conduct audits involving the taxes it administers and collects, including the Transportation Tax; and

WHEREAS, upon a determination that a county has expended Transportation Tax funds contrary to the Transportation Act, the county shall repay the improper expenditures from other legally available sources; and

NOW THEREFORE, a county shall be subject to the following guidelines and standards for determining whether expenditures of Transportation Tax revenues are proper:

### **GENERAL GUIDELINES**

The revenues generated from the Transportation Tax must be used in accordance with statutory restrictions imposed by the General Assembly – namely, proceeds must be used for “capital costs” of the types of transportation projects identified in the Transportation Act or the administration of a specific transportation project.

“Capital Costs” means expenditures that are treated as “capital” expenditures under generally accepted accounting principles. In general, costs are treated as Capital Costs if they are incurred for the planning, acquisition, construction, or improvement of property having a useful life of more than one year and include, without limitation, costs related to the planning, acquisition, construction, or improvement of land, buildings, vehicles, equipment, infrastructure improvements, and intangible assets (*e.g.*, software and intellectual property with a useful life of more than one year). Capital Costs also include costs and expenditures that increase the value of existing property with a useful life of more than one year or that extend the useful life of existing property for a period of more than one year. “Capital Costs” consist of both Direct Costs and Indirect Costs (as each term is described below).

### **ELIGIBLE COSTS**

For purposes of these guidelines, “Eligible Costs” are Capital Costs, whether Direct Costs or Indirect Costs, and costs for Mass Transit Systems as further described in (C) below.

All Eligible Costs must be “reasonable.” A cost is reasonable if, in its nature and amount, it does not exceed that amount which would be incurred by a prudent person under the circumstances then and there prevailing in the conduct of government business; duplicative costs are not reasonable. The reasonableness standard for Eligible Costs includes, but is not limited to, a consideration of:

- Whether the cost is generally recognized as ordinary and necessary for the project;
- Whether the cost is in compliance with generally accepted sound business practices;

- Whether the cost is the result of arms-length bargaining;
- Federal and state laws and regulations, as applicable;
- Market prices for comparable goods or services;
- The county's fiduciary responsibilities to the public; and
- Whether the cost constitutes a significant deviation from the county's established practices.

#### **A. Direct Costs**

"Direct Costs" are expenditures for material, labor, and financing for transportation-related projects that would be properly chargeable to a capital asset account as distinguished from current expenditures and ordinary maintenance expenses.

"Project(s)" means those transportation-related projects described in the imposition ordinance and ratified in the referendum question in accordance with the provisions of the Transportation Act, specifically: highways, roads, streets and adjacent sidewalks, bridges, mass transit systems, greenbelts, and other transportation-related projects facilities including, but not limited to, drainage facilities relating to the highways, roads, streets and adjacent sidewalks, bridges, and other transportation-related projects.

Examples: The following, to the extent directly related to the planning, acquiring, constructing, or improving a Project or any portion thereof, are examples of eligible Direct Costs:

- The purchase price of the property (*e.g.*, land and interests in land, existing buildings and structures).
- The amounts paid a construction company for the construction of a Project (*e.g.* highways, roads, streets and adjacent sidewalks, bridges, bus terminals, train terminals, greenbelts, and other transportation-related facilities).
- Direct labor costs.
- Construction material costs (*e.g.*, asphalt, concrete, steel, electrical wiring, and piping including related shipping, freight, and insurance charges).
- Equipment costs directly used in the construction or improvement of a Project, including lease payments and depreciation.
- Site preparation costs (*e.g.*, demolition, environmental remediation, and utility relocation).
- Engineering, architectural, and design costs.

- Cost of permits, licenses, performance bonds, surety bonds, easements, and rights-of-way.
- Legal, accounting, and other professional service fees incurred in connection with the planning, acquisition, construction, and improvement of a specific transportation related project (*e.g.* right of way acquisition and condemnation).
- Inspection costs.
- Interest accrued on debt incurred to finance a Project, up to the time it (or the portion thereof that is financed) is placed in service. A Project (or portion thereof) shall be treated as “placed in service” at the time at which, based on all the facts and circumstances, (i) the Project (or portion thereof) has reached a degree of completion which would permit its operation at substantially its design level and (ii) the Project (or portion thereof) is in fact in operation at such level.
- Debt service on bonds or other obligations issued to finance a Project or Projects, including the costs of issuance of such bonds or obligations.

## **B. Indirect Costs**

“Indirect Costs” are costs that benefit (i) the construction and improvement of authorized Projects or (ii) the construction and improvement of authorized Projects and other county operations. Only the portion of the Indirect Costs related to Projects are Eligible Indirect Costs.

“Eligible Indirect Costs” are costs that directly benefit or are incurred by reason of the planning, acquisition, construction or improvement of a Project.

The determination of whether an expense is an Eligible Indirect Cost must be based on a reasonable and appropriate allocation method (*e.g.*, a burden rate or similar allocation method based on labor hours, salary costs, or material costs that are relevant to the function of the mixed service department). Eligible Indirect Costs do not include costs that are otherwise listed as Ineligible Costs (as defined and described herein below).

### **Examples:**

The following are examples of Eligible Indirect Costs:

- Portion of an employee’s salary and benefits whose time is allocable to administering the planning, acquisition, construction and improvement of Projects.
- Portion of reasonable and necessary costs of office equipment and supplies, telephone, transportation, fuel, and similar daily costs for employees devoted to administering the planning, acquisition, construction and improvement of Projects.
- Where a county department provides services to employees directly engaged in the transportation program, including the provision of public information to affected citizens or communities impacted by one or more Projects, and other county departments (*i.e.* a



mixed service department), a portion of the county department's costs may be allocated as Eligible Indirect Costs based on either labor cost or labor hours.

### **C. Mass Transit Systems Costs**

"Mass Transit System" as used herein refers only to a mass transit system.

Eligible Costs include costs incurred for the acquisition, design, construction, equipping, and operation of Mass Transit Systems, provided that such costs are consistent with the public purpose of the Transportation Act, the county's imposition ordinance and the referendum approved by voters.

Eligible Costs for Mass Transit Systems must be tethered to the administration of the Mass Transit System and must be reasonable and not excessive. Eligible Costs include purchases of capital assets. Eligible Costs also include costs and expenses paid or incurred in connection with the day to day operation of the Mass Transit System.

Additionally, the Mass Transit System must comply with certain Federal and State requirements in the operation of the Mass Transit System. The expenditures necessary to fulfill these Federal and State requirements are also Eligible Costs, provided the expenditures are reasonable and not excessive.

### **INELIGIBLE COSTS**

"Ineligible Costs" are all costs that are not tethered to a Project or the direct administration of a Project. Furthermore, costs that are excessive or unreasonable or that do not directly benefit or are not incurred by reason of the planning, acquisition, construction or improvement of a Project are Ineligible Costs.

#### **Examples:**

The following are examples of Ineligible Costs:

- Excessive amounts not based on a competitive bidding arrangement or amounts paid in transactions involving conflicts of interest.
- County wide programs intended to support all facets of county operations.
- County costs for the routine maintenance or upkeep of roads, streets, thoroughfares, bridges and highways.
- Expenditure for training, establishment or support of programs to benefit constituents or persons.
- Any costs associated with a mentor/mentee program.
- Legal fees and other professional costs incurred in prosecuting or defending a lawsuit or claim related to an alleged improper expenditure of Transportation Tax revenues.

- County overhead costs (*e.g.* utilities, office supplies, telephone, office facilities, salaries).
- Costs associated with a county's normal cost of doing business (*e.g.*, finance and accounting, procurement, executive management, human resources, budget and grants management, etc.).
- County support costs (*e.g.* support for the small local business enterprise program of the office of small businesses opportunities, procurement, human resources, budget and grants management, and finance-related functions).
- Professional fees (*e.g.* legal, accounting, and engineering) not directly related to a Project.
- Costs that are not reasonable or are duplicative.

### **COMPLIANCE WITH GUIDELINES**

These guidelines apply to all counties and political subdivisions that receive Transportation Tax funds, including through intergovernmental agreements, contracts, or agreements with firms or a consortium of firms. Nothing herein shall be construed so as to permit a county to apply funds from the Transportation Tax revenue for other county purposes.

Based on the Department's extensive administrative, oversight, and enforcement responsibilities in the Transportation Act and throughout Title 12 of the South Carolina Code, the Department is authorized to conduct audits to ensure a county's expenditures of Transportation Tax revenues comply with the provisions of the Transportation Act and the South Carolina Code. All improper expenditures of Transportation Tax revenue shall be reimbursed from other legally available sources within the current fiscal year.

In addition, a county or political subdivision that receives any Transportation Tax funds shall conduct an independent annual audit of the financial records and transactions and expenditures of Transportation Tax funds. The results of the annual audit will be made available to the public on the county's website.



Richland Common Pleas

**Case Caption:** Richland County South Carolina , plaintiff, et al vs South Carolina  
Department Of Revenue , defendant, et al  
**Case Number:** 2016CP4003102  
**Type:** Order/Temporary Injunction

So Ordered

s/ Honorable G. Thomas Cooper, Jr. Circuit  
Judge 2126